



**OFFICE OF
THE ATTORNEY GENERAL
AUSTIN, TEXAS**

PRICE DANIEL
ATTORNEY GENERAL

April 25, 1947

Hon. George W. Cox, M. D.
State Health Officer
Texas State Board of Health
Austin, Texas

Opinion No. V-162

Re: Exemption of insecticide
which has been registered
with the Commissioner of
Agriculture, as agricul-
tural insecticide, from
registration with the State
Health Officer as livestock
insecticide.

Dear Sir:

We refer to your request of April 11, 1947,
for an opinion on the question:

"Whether or not an agricultural insecticide and fungicide is exempt from registration under the Texas Livestock Remedy Act, known as Senate Bill No. 75, if such agricultural insecticide and fungicide is also advertised as a livestock insecticide in view of Section 4 (e) of the Texas Livestock Remedy Act, which reads as follows: 'Nothing in this Act shall apply to any product registered with the Commissioner of Agriculture under the provisions of Chapter 98, Acts of the Regular Session of the 48th Legislature.'"

Your inquiry and other communications concerning it, reflect that Agricultural insecticide and Fungicide Association manufactures agricultural insecticides and fungicides which have been properly registered, as such, with the Commissioner of Agriculture, and are being sold under proper labels, but are being advertised by the manufacturers, as livestock insecticides.

"Chapter 98, Acts of the Regular Session of the 48th Legislature" and the "Texas Livestock Remedy Act, known as Senate Bill No. 75," referred to in your

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question, are now known as Articles 135b-1 and 192-1, respectively, in Vernon's Civil Statutes and will be referred to in this opinion by such article numbers.

Article 135b-1, of Vernon's Civil Statutes, was enacted in 1943, and is entitled:

"An Act to prevent fraud in the sale of agricultural insecticides and fungicides by providing for the branding or labeling of such products sold under this Act; prohibiting the adulteration, misbranding or misrepresentation of agricultural insecticides and fungicides; providing for the coloring of certain agricultural insecticides and fungicides; defining certain words, terms and phrases; providing for registration with the Commissioner of Agriculture and for forfeiture and cancellation of registration by suit in the name of the State of Texas; providing for the examination and analysis of agricultural insecticides and fungicides; providing for the administration of this Act by the Commissioner of Agriculture; describing the powers and duties of the Commissioner of Agriculture and the State Chemist; providing for registration fees and disposition thereof; appropriating funds to administer this Act; providing penalties and fines for the violation of any provision of this Act; providing for the search and seizure of any agricultural insecticides or fungicides under certain circumstances; providing for the condemnation and forfeiture of such insecticides and fungicides by legal process; exempting retail dealers from registration of products and payment of registration fees under certain conditions; exempting household insecticides, disinfectants and deodorants from provisions of Act; providing for a saving clause, and declaring an emergency."

Article 192-1, of Vernon's Civil Statutes was enacted in 1945, and is entitled:

"An Act regulating the manufacture, sale offering to sell and labeling of livestock remedies; providing for registration

with State Health Officer; providing for fees; providing for enforcement; providing penalties; providing a saving clause; allocating fees; appropriating funds; and declaring an emergency."

The saving clause in that law is as follows:

"Nothing in this Act shall apply to any product registered with the Commissioner of Agriculture under the provisions of Chapter 98, Acts of the Regular Session of the 48th Legislature." (Art. 192-1, V.C.S.) (Emphasis added)

We are of the opinion that the express exception of "any product registered with the Commissioner of Agriculture" as made in Article 192-1 of Vernon's Civil Statutes, removes such product, which has been properly registered with the Commissioner of Agriculture, from all of the provisions of Article 192-1, so that such product is not required to be again registered with State Health Officer.

SUMMARY

Article 135b-1, V. C. S., requires registration of insecticides and fungicides with the Commissioner of Agriculture before being offered for sale in Texas. Thereafter, the legislature enacted Article 192-1, V.C.S., requiring livestock remedies to be registered with the State Health Officer, excepting such products as are registered with Commissioner of Agriculture. When a product is properly registered under Article 135b-1, such exception exempts it from registration with the State Health Officer.

Yours very truly,

APPROVED APR. 25, 1947

ATTORNEY GENERAL OF TEXAS

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